



**City of Marlborough**  
**Zoning Board of Appeals**  
**140 Main Street**  
**Marlborough, Massachusetts 01752**  
**Tel. (508) 460-3768**

**Minutes**  
**October 22, 2019**

• **Location: 6 Gikas Ln. – Zoning Board of Appeals Case # 1460-2019**

Applicant: Jonathan Bloom, 6 Gikas Ln. Marlborough, MA 01752

Members Present: Paul Giunta-Chairman, Ralph Loftin, Thomas Pope, Robert Levine and Thomas Golden.

Date of Appeal: September 11, 2019

Petition: Jonathan Bloom, applicant, proposes to construct a new 16 x 32 inground pool at 6 Gikas Ln. (Chapter 650-45 Location of Accessory Structure). Being a corner lot (Chapter 650-42(1)D) and an Open Space Subdivision (Chapter 650-28), the proposed inground pool will not comply with the required minimum front set back of 20 ft. vs. the proposed 5.2 ft. Being Map 30, Parcel 20 located in Zoning District A2.

Public Hearing: The Zoning Board of Appeals held a public hearing on October 22, 2019 at 7:00 PM at Marlborough City Hall, 3<sup>rd</sup> Floor-Memorial Hall.

Documents Submitted in this Appeal:

- Packet submitted to the Board includes: Board Application, Denial letter from the Building Dept. dated August 15, 2019.
- Plan submitted entitled: Proposed Pool Plan of Land in Marlborough, MA Prepared by Colonial Engineering, Inc. Dated: July 8, 2019 Scale 1"=40'.

Jonathan Bloom, applicant, was present. Mr. Bloom stated he would like to install a 16 foot x 32 foot inground swimming pool, to be located within the front setback of the lot (on the Hudson St. side). This is a corner lot, having 2 front setbacks and 2 side setbacks (no rear setback).

The applicant stated he would like to install an inground pool for his family. He has an existing 5 ft. high fence on the corner of his property, facing Hudson Street and Gikas Lane. He stated Hudson St. is not an area where there are lots of children hanging out, so a pool will be no danger to the general public, especially children. He also

mentioned that when he bought the house, he was not aware that this is an Open Space Subdivision, where lots are smaller in which more area is designated as open space.

The topography - Lot slightly slopes higher from the front to the back.

The Board felt the pool could be placed on the upper right corner of the lot. The applicant feared that if the pool leaked, water would go down towards the house. The Board asked if the pool can be less than 17 ft. from the house. Answer: He did not want the pool to be too close to the house. Note: According to the pool regulations, pools must be at least 10 ft. from the house and a minimum of 5 ft. from the side lot lines.

A fence around the pool area will have to be constructed, according to the Building Dept. pool permit rules and regulations. It was mentioned that a fence can be placed on the property line.

**Hardship** as stated by the applicant: He lacks space to construct a pool. When he purchased the house, he did not take into consideration he may want a pool for his family. He cannot see how his proposed pool would hurt the neighborhood. To place the proposed pool within the front setback will insure him that if there was a water leak from the pool, the water will run towards the street, not his house. The topography of his lot slopes slightly upward from the street level. He realizes that what he stated as a hardship is not a "hardship" according to the Mass General Law Chapter 40A § 10.

There was some discussion about the front lot line to his property. The Board gave him the definition of front lot line and showed him on his plan where his front lot line is located. The applicant was under the impression he could use the street line (Hudson St.) as part of his front setback.

Other than the applicant, no one appeared in favor of or in opposition to the proposal.

The Board gave the applicant the option to "Withdraw Without Prejudice". The applicant agreed to "Withdraw Without Prejudice".

A motion was made by Robert Levine to allow the applicant to "Withdraw Without Prejudice". Ralph Loftin seconded the motion. By a vote of 5-0 the Board voted to allow the applicant to "Withdraw Without Prejudice".

A motion was made by Paul Giunta to close the public hearing. Ralph Loftin seconded the motion. The Board voted 5-0 to close the public hearing.

The Board makes the following findings and decision:

1. The topography of the lot in question slopes slightly upward from the street level to the back of the lot. Based on the plot plan and the applicant's testimony, it was not clear whether the proposed pool could be located at the back of the house and meet all the regulations for a pool.
2. The applicant failed to establish "hardship" relating to soil conditions, shape or topography of land or structure. Just wanting a pool and not having the sufficient amount of area to construct a pool is not a "hardship" according to Mass General Laws Chapter 40A, Section 10, thus does not meet the criteria for a variance.

**On the basis of its findings and conclusions, the Board allowed the applicant to "Withdraw Without Prejudice" his petition. A motion was made by Robert Levine to allow the applicant to "Withdraw Without Prejudice". Ralph Loftin seconded the motion. A vote of 5-0 was taken, with Paul Giunta, Ralph Loftin, Thomas Pope, Thomas Golden and Robert Levine voting in the affirmative.**

- **Location: 17 Beauregard Circle – Zoning Board of Appeals Case #1461-2019**

Applicant: Thomas Potter

Date of Appeal: Sept. 20, 2019

Location of Subject Property: 17 Beauregard Circle

**Petition:** Thomas Potter desires to construct a 16 ft. x 15 ft. covered porch and a 14.5 ft. x 15 ft. deck at the rear of his house, and to expand his current driveway at 17 Beauregard Circle. Map 18, Parcel 154, located in Zoning District A-2. The proposal does not comply with Chapter 650-41 "Table of Lot Area, Yards and Height of Structures", Chapter 650-48 "Off Street Parking" and Chapter 650-49 "Driveways and curb cuts" as follows:

1. Total required maximum Lot Coverage is 30% vs. the proposed 35.9%
2. Expanded driveway, Chapter 650-48C(5b-1) Required minimum setback of 5 ft. vs. proposed rear right side setback .8 ft.
3. Proposed driveway expansion attached to the right side of the house. Chapter 650-49(2c) no driveway shall be located within 5 ft. of a building, except for driveway intended for drive-up window service.

The Zoning Board of Appeals held a public hearing on October 22, 2019 at 7:30 PM at Marlborough City Hall, 3<sup>rd</sup> Floor-Memorial Hall.

Members present: Paul Giunta-Chairman, Ralph Loffin, Thomas Pope, Thomas Golden and Robert Levine.

Also, present: Thomas Potter, applicant.

Documents Submitted in this Appeal:

- Packet submitted to the Board included: Zoning Board Applicant, Denial letter from the Building Department dated August 22, 2019.
- Plan submitted entitled: Plot Plan in Marlborough, MA, Prepared by: P.N. Associates, Inc. Dated revised July 22, 2019. Scale: 1"=20'.

The property in question is located at 17 Beauregard Circle, Map18, Parcel 154 of the Assessor's Map.

Thomas Potter, applicant was present. Mr. Potter stated he would like to construct a 16 ft. x 15 ft. screened-in porch and a 14.5 ft. x 15 ft. deck at the rear of his house, and to expand his current driveway. To expand his current driveway would require a minimum of 5 ft. vs. the proposed .8 ft. to the side lot line and a minimum of 5 ft. vs. 0 ft. from the house. The proposal also results in lot coverage of 35.9%, which exceeds the maximum 30% allowed by code.

Mr. Potter stated when he bought the house, the garage floor was jacked up by the previous owners, creating the existing driveway to curl to the right. Thus, rain water pools to the right of the existing garage. He plans to install a catch basin to collect the water where the expansion is located. He also mentioned his neighbor on that side of the house had no objections to his proposal to contain the water runoff.

**Hardship** stated by applicant: The screened-in porch will help keep bugs away in the evening when his family desires to sit outside. The proposed driveway expansion is to help divert water runoff from his house.

Other than the applicant there was no one present to speak in favor of or in opposition to the petition.

Paul Giunta and other Board Members suggested that the applicant has other options to divert the water runoff. One being to install a grate at the end of the driveway (at the street) and install a drywell. The applicant stated his contractor did not think it is a good

idea. Another option is to install a grate and drywell at the entrance of his garage to divert the water

Ralph Loftin stated that the “hardship” according to Mass General Law Chapter 40A § 10 must be related to soil condition, topography and shape of the lot, not an inconvenience to the owners of the lot. And there must be something unique to the lot in question which would prevent the owners from using the lot as it is zoned unless a variance was granted (Zoning District A-2, residential). The applicant has other options to correct the water runoff problem on his lot, rather than expanding the existing driveway.

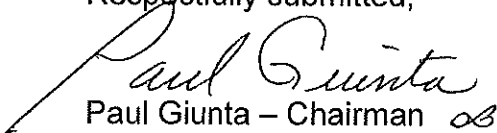
The Board felt that if the applicant eliminated the proposed driveway expansion, he could probably come close to the required maximum Lot Coverage of 30%.

The Board asked the applicant if he would like to continue the public hearing until such time as he can revise his plan to remove the proposed expansion of his driveway to see if he can meet the maximum 30% Lot Coverage.

The applicant agreed to continue the hearing. A motion was made by Ralph Loftin to continue the public hearing to November 26, 2019 (Tuesday) at 7:00 PM for the applicant to revise his plan to remove the proposed expansion of the existing driveway at the side of the garage and re-calculate the Lot Coverage. Robert Levine seconded the motion. The Board **voted 5-0 to continue the public hearing to November 26, 2019.**

The public meeting was adjourned.

Respectfully submitted,

  
Paul Giunta – Chairman *oB*  
Zoning Board of Appeals